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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/923,554	08/07/2001	James William Otter	60246-145/8674	6915
26096	7590	08/04/2005	EXAMINER	
CARLSON, GASKEY & OLDS, P.C. 400 WEST MAPLE ROAD SUITE 350 BIRMINGHAM, MI 48009			JACKSON, MONIQUE R	
			ART UNIT	PAPER NUMBER
			1773	

DATE MAILED: 08/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/923,554

Applicant(s)

OTTER, JAMES WILLIAM

Examiner

Monique R. Jackson

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**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 22 July 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See attached.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

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Continuation of Item No. 11. NOTE: The Applicant's arguments filed 7/22/05 have been considered but are not persuasive. The Applicant first argues that the subject matter of the claims was allegedly described in the specification to convey to one skilled in the art that the inventor had possession of the claimed invention. The Applicant refers to Paragraphs 17 and 18 as providing support for the claimed invention, however, the Examiner notes that though these sections provide general information with respect to a condensing furnace system, they do not teach that the **"heat transfer component"** of the instant invention comprises the first and second fluids considering it only teaches that the "heat transfer component" comprises the metal/adhesive/film laminate. Further, as previously recited, the **"method of adhering"** clearly **does not** include the added steps of flowing a first fluid in said heat transfer component and exchanging heat between said first fluid and a second fluid flowing around said heat transfer component. Though the Applicant has referred to sections of the specification at Paragraph 18 and Figure 2, the Examiner notes that these sections do not teach or fairly suggest that the "method of adhering" included these added steps as claimed. It is evident from the instant disclosure at the time of filing and Applicant's own arguments, that these added limitations refer to the **intended use of the adhered heat transfer component** or a **method of using the heat transfer component not the heat transfer component itself or the method of making the heat transfer component**. Hence, the Examiner maintains her position that the instant claims as recited and directed to the **"heat transfer component"** and the **"method of adhering"** fail to meet the written description requirement.

With respect to the rejection under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, the Applicant argues that "[o]ne skilled in the art would understand the meets and the bounds of the instant claims and

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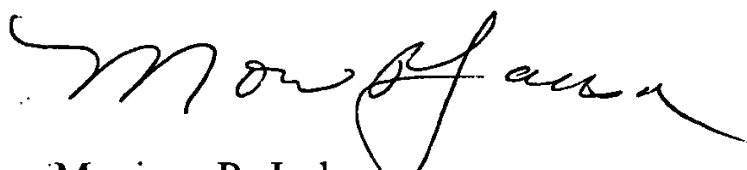
would understand that a method of adhering a film to a heat transfer component would form a heat exchanger **that is used to exchange heat between two fluids**" [emphasis added.] The Examiner notes that from Applicant's own statement above, the added limitations seem to refer to the intended use of the heat transfer component and therefore, the Examiner maintains her position that the claims are indefinite because it is unclear whether the Applicant's intent is to claim the "heat transfer component" and the "method of adhering a film" or the heat transfer apparatus and a method of heat transfer which include the combination of the heat transfer component and the two fluids exchanging heat. Further, it is noted that in terms of examining the claims on the merits with regards to the prior art, the Examiner has taken the position that these added limitations constitute intended use of the heat transfer component or the adhered laminate and are not part of the actual heat transfer component or the method of adhering the film as previously recited. Since the added limitations do not appear to materially or structurally affect the heat transfer component or the method of adhering, the Examiner maintains that the cited prior art reads upon the claims as instantly recited.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monique R. Jackson whose telephone number is 571-272-1508. The examiner can normally be reached on Mondays-Thursdays, 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on 571-272-1284. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Monique R. Jackson". The signature is fluid and cursive, with the first name "Monique" being more prominent than the last name "Jackson".

Monique R. Jackson  
Primary Examiner  
Technology Center 1700  
August 2, 2005